

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

COMMERCE LIMITED)	CIVIL ACTION NO.:
PARTNERSHIP #9349,)	_____
)	
Plaintiff,)	
)	
v.)	
)	
REGIONAL MEDICAL GROUP,)	
LLC,)	
)	
Defendant.)	

COMPLAINT

COMES NOW, Commerce Limited Partnership #9349 (“Plaintiff”) and files this, its Complaint against Regional Medical Group, LLC (“Defendant”), respectfully showing as follows:

PARTIES, JURISDICTION & VENUE

1.

Plaintiff is a Pennsylvania limited partnership with its principal office located at 1280 W Newport Center Drive, Deerfield Beach, Florida 33442.

2.

Defendant is a Georgia limited liability company, which may be served via its registered agent, Carmen Baker, at 5335 Roswell Road, Atlanta, GA, 30342, which

is also the address of Defendant's principal office according to the Georgia Secretary of State's website.

3.

This Court has jurisdiction based on the parties' diversity of citizenship under 28 U.S.C. § 1332(a)(1), because it is between citizens of different states and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

4.

Venue is also proper under 28 U.S.C. § 1391(b)(2), because it is being filed in the judicial district where Defendant resides and a substantial part of the events giving rise to the claim occurred in the judicial district where the case is filed.

FACTUAL BACKGROUND

5.

Plaintiff is the owner of commercial real property located at 1950 Pleasant Hill Road, Duluth, Georgia 30096 (the "Property").

6.

On or about November 27, 2019, Plaintiff and Defendant entered into an Agreement of Lease (the "Lease") for a term of five (5) years for approximately

4,500 square feet of floor area of the Property (the “Demised Premises”). A true and correct copy of the Lease is attached hereto as Exhibit “1.”

7.

The Lease Commencement Date was December 27, 2019. Throughout the Lease Term, Defendant was required to pay Rent and Common Area Maintenance expenses, including taxes, on or before the first date of each month.

8.

Defendant is also required under the Lease to make all repairs at the Demised Premises at Defendant’s sole cost and expense and maintain all portions thereof.

9.

Further, the Lease requires Defendant to “occupy the Demised Premises promptly upon the Commencement of the Term and thereafter throughout the Term, continuously, actively and diligently use the entire Demised Premises throughout the Term...”

10.

Defendant has failed to timely pay Rent and other amounts due under the Lease and the amounts past-due and owing exceed \$78,603.32. Defendant has not paid any Rent or other amounts since March of 2021.

11.

Defendant has also failed to complete Tenant Finish Work, failed perform necessary tenant improvements and repairs, failed to keep the property maintained, and failed to occupy the Demised Premises since the Lease Commencement.

12.

Plaintiff notified Defendant of its defaults on multiple occasions, including May 24, 2021 and June 4, 2021 and Defendant has failed to respond or take any action to cure the defaults.

13.

Plaintiff files this civil action for damages and specific performance for all Rent and other amounts due and owing under the Lease in accordance with the express default remedies provided in the Lease.

COUNT I – BREACH OF CONTRACT

14.

Plaintiff hereby incorporates all allegations previously alleged as if fully set forth herein.

15.

Defendant has breached the Lease by, *inter alia*, failing to pay rent and other sums when due, failing to repair and maintain the Demised Premises, and failing to continuously occupy the Demised Premises.

16.

Plaintiff is entitled to exercise any of the default remedies provided in Section 13.01 of the Lease.

17.

Plaintiff has opted not to terminate the Lease and instead seeks an order for specific performance and damages for the amounts owed, plus attorney's fees and expenses of litigation.

18.

Plaintiff is entitled to recover all amounts past-due and owing under the Lease, which total \$135,518.54 as of the date of this Complaint.

19.

Plaintiff is also entitled to recover all Rent and other charges, payments, costs and expenses for the entire unexpired Term of the Lease, which became immediately payable in advance upon default in an amount to be shown at trial.

20.

Plaintiff is entitled to charge Defendant for all expenses for repairs paid by Plaintiff, and Plaintiff seeks reimbursement in the form of damages for all amounts Plaintiff paid for maintenance and repair of the Premises since the Commencement of the Lease in an amount to be shown at trial.

21.

Under the Lease, Plaintiff is entitled to an amount equal to its reasonable attorney's fees and court costs in an amount to be proven at trial. Plaintiff sent notice pursuant to O.C.G.A. § 13-1-11 on June 4, 2021 and has complied with all obligations under Georgia law.

COUNT II – ATTORNEY'S FEES AND EXPENSES OF LITIGATION

22.

Plaintiff hereby incorporates all allegations previously alleged as if fully set forth herein.

23.

Plaintiff is entitled to all reasonable attorney's fees and costs under the Lease, in an amount to be proven at trial.

24.

Additionally, Plaintiff seeks attorney's fees and expenses of litigation pursuant to O.C.G.A. § 13-6-11, because Defendant has acted in bad faith, has been stubbornly litigious, or has caused Plaintiff unnecessary trouble and expense.

WHEREFORE, Plaintiff respectfully requests the following relief:

1. For an award of specific performance of the obligations under the Lease, which, at a minimum, requires Defendants to (i) pay all amounts previously due and owing under the Lease to Plaintiff, which total \$135,518.54 as of the date of the Complaint and continue to accrue at the rates specified in the Lease, (ii) orders Defendant to finish the Tenant Finish Work and promptly open the business operations at the Demised Premises within thirty (30) days of such Order.

2. For judgment to Plaintiff and against Defendants jointly and severally for all Rents previously due and owing in an amount no less than \$135,518.54 and all rents now presently due and owing for the entire remaining term of the Lease in an amount to be shown at trial, plus prejudgment interest at the rate of 18% per annum from April 1, 2021 up to the date of judgment;

3. For an order awarding Plaintiff its attorney's fees and expenses of litigation in accordance with the contracts and pursuant to O.C.G.A. §§ 13-1-11 and 13-6-11;

4. For such other and further relief as this Court deems appropriate.

Respectfully submitted this 9th day of June, 2021.

ANDERSEN TATE & CARR, P.C.

/s/ Graham K. Brantley

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